

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

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CC:CORP:2

PLR-119393-15

Date:

November 23, 2015

Legend

Distributing =

Controlled =

Sub =

LLC =

State A =

Business A =

Business B =

Date 1 =

Funds =

Distributing DCP =

Trust

LLC DCP Trusts =

a =

b =

Certain
Agreements =

Dear :

This letter responds to your authorized representatives' letter dated June 5, 2015, requesting rulings on certain Federal income tax consequences of a series of transactions (the "Proposed Transaction", as defined herein). The material information provided in that request and in subsequent correspondence is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This letter and the rulings contained herein are issued pursuant to section 6.03 of Rev. Proc. 2015-1, 2015-1 I.R.B. 1, 17, regarding one or more or significant issues under section 355, and only addresses one or more or discrete legal issues involved in the transactions. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter, or as to any issues not specifically addressed by the rulings below.

Summary of Facts

Distributing, a State A corporation, is publicly-traded and the common parent of an affiliated group of includible corporations which join in the filing of a consolidated Federal income tax return (the "Distributing Group"). Distributing wholly owns LLC, a State A limited liability company that is treated as a disregarded entity for Federal income tax purposes. Distributing also wholly owns Sub, a State A corporation and member of the Distributing Group. The Distributing Group has been engaged in the conduct of Business A (through LLC) and Business B (through Sub). In the Proposed Transaction, as described below, Distributing will contribute Business B as well as other assets and stock to Controlled. The fair market value of Business B is a percent of the fair market value of the gross assets that Distributing will contribute to Controlled.

Distributing and LLC maintain certain Deferred Compensation Plans ("DCPs") for the benefit of their employees. As part of its DCP, Distributing deposits cash into the Distributing DCP Trust and directs the trustee to purchase Distributing stock in the open market. Similarly, LLC deposits cash into various LLC DCP Trusts and directs the trustees to purchase Distributing stock and shares of Funds managed by LLC. The Distributing DCP Trust and LLC DCP Trusts all are grantor trusts, and they hold, in the aggregate, b percent of the total outstanding Distributing Common Stock. As a result of the Distribution, the Distributing DCP Trust and LLC DCP Trusts, in their capacity as holders of Distributing stock, will receive shares of Controlled stock (the "Retained Stock").

Proposed Transaction

The relevant steps of the Proposed Transaction are set forth below:

- (i) On Date 1, Distributing formed Controlled.
- (ii) Distributing will contribute to Controlled all of its Sub stock and other assets (the "Contribution").

- (iii) Except for the Retained Stock, Distributing will distribute all the stock of Controlled to its public shareholders pro rata (the "Distribution").
- (iv) Subsequent to the Distribution, Controlled will elect to be treated as a RIC under section 851.

In connection with the Distribution, Controlled will enter into Certain Agreements with Distributing (through LLC).

Representations

- (a) The business purpose for the retention by Distributing of the Retained Stock is to align the interests of Distributing's and LLC's employees with those of the stockholders of Distributing and of the Funds that Distributing and LLC are managing and to compensate their employees based on the performance of such Funds.
- (b) The Retained Stock will represent h percent of all of Controlled's issued and outstanding stock immediately after the Distribution.
- (c) The Retained Stock will be disposed of as soon as a disposition is warranted consistent with the business purpose of the retention, but in any event not later than 5 years after the Distribution.
- (d) The Retained Stock will, prior to the distribution from the Distributing DCP Trust and the LLC DCP Trusts, be voted in proportion to the votes cast by Controlled's other shareholders.
- (e) Each of the Distributing DCP Trust and the LLC DCP Trusts has qualified as a grantor trust under section 671, with Distributing as its owner, at all times since its formation.
- (f) In no event will the retention of the Retained Stock prevent Distributing from distributing an amount of Controlled stock that represents control under section 368(c).
- (g) Distributing's accumulated earnings and profits and its projected current earnings and profits in the year of the Distribution will be negative. In addition, the aggregate adjusted basis of property transferred in the Contribution will be greater than the fair market value of such property.
- (h) If the fair market value of property held by Controlled exceeds the property's aggregate adjusted basis immediately before it makes an election to be treated

as a RIC under section 851, it will make an election under Treas. Reg. § 1.337(d)-7 to treat the election as a taxable event.

Rulings

Based solely on the information submitted and the representations set forth above, and provided that the relevant transactions otherwise qualify under sections 368(a)(1)(D) and 355, we rule as follows:

- (1) The relative fair market value of the gross assets of Business B as compared to the fair market value of the gross assets of Controlled will not prevent Business B from qualifying as an active trade or business for purposes of section 355(b).
- (2) The retention of Controlled stock by the Distributing DCP Trust and the LLC DCP Trusts will not be in the pursuance of a plan having as one of its principal purposes the avoidance of Federal income tax within the meaning of section 355(a)(1)(D)(ii).

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In addition, no opinion is expressed or implied with regard to whether Controlled will qualify as a RIC under subchapter M of the Code. Further, no opinion is expressed or implied regarding the application of section 409A of the Code.

Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Mark J. Weiss
Chief, Branch 2
Office of Associate Chief Counsel (Corporate)